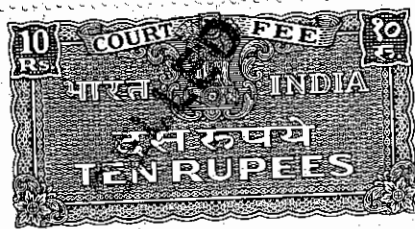
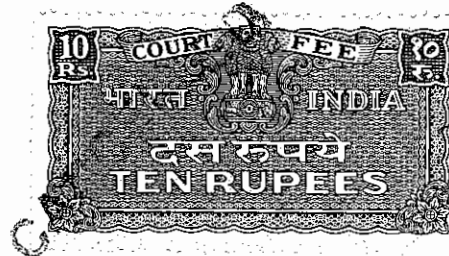


CF 1002

Single Bench



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IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P.(C) 6429 \2006 (S.B.)

PETITION UNDER Article 226\227 Constitution of India)

PETITIONER :

P.R. No. 6423/06
Present: Amya Kant Jais
dated: 20/11/06

RECEIVED-COPY
20/11/06

CLERK to A. G. BILASPUR

Gram Panchayat ; Mudpar, District Durg
Through Up- Sarpanch, (Officiating
Incharge Sarpanch) Ram Jivan Banjare
S/o Late Shri Chakman, Aged about 53
Years R/o Village Chak Pendra Tahasil
Nawagarh District Durg (C.G.)

VERSUS

RESPONDENTS :

1. State Of Chhattisgarh
Through Collector, Durg (C.G.)
2. Chief Election Officer, Rajya Nirwahan
Ayog, State of Chhattisgarh,
Through District Election Officer ,Collector,
Durg (C.G.)
3. Additional Collector, Bemetara
District Durg (C.G.)



WRIT PETITION UNDER ARTICLE 226\227
CONSTITUTION OF INDIA

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. (c) No. 6429 of 2006

**Petitioner : Gram Panchayat Mudpar, District Durg
Through Up-Sarpanch, (Officiating Incharge
Sarpanch)**

Versus

**Respondents : State of Chhattisgarh through the Collector,
Durg & others**

Shri Yashwant Tiwari, Advocate for the petitioner.

**Shri N.K. Agrawal, Deputy Advocate General with Shri A.S.
Kachhawaha, Govt. Advocate for the respondent/State.**

ORDER

(29th November, 2006)

1. The present writ petition is filed under Article 226 of the Constitution of India by the Gram Panchayat Mudpar through Up-Sarpanch, who is officiating on account of vacation of the office of Sarpanch, due to 'no confidence motion' against the elected Sarpanch. The petitioner seeks a direction to restrain the respondents from holding the bye-election for filling up the seat of Sarpanch.
2. The facts in nutshell are that one Smt. Ramkali Yadav was elected as Sarpanch in the election. By the resolution dated 7.6.2006, 'no confidence motion' was passed against Smt. Ramkali Yadav, the then Sarpanch.
3. Being aggrieved, Shri Ramkali Yadav filed a Reference under Section 21 (4) of the Chhattisgarh Panchayat Raj Awam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as "the Adhiniyam, 1993") before the Collector, Durg. During pendency of the Reference, Ram

Jivan Banjare, assumed the office of Sarpanch as officiating Incharge Sarpanch. This petition has been filed by the officiating Incharge Sarpanch for not holding the election of Sarpanch. It appears that the petitioner would continue as officiating Sarpanch without election. Smt. Ramkali Yadav, who was the elected Sarpanch and no confidence motion against her was passed, has not been impleaded as a party respondent, in this petition.

4. When the Reference is pending consideration before the Collector under sub-section (4) of the Section 21 of the Adhiniyam, 1993, this petition seeking a relief of not holding the election of Sarpanch, is not maintainable. Conduct of the petitioner tantamounts to abuse and misuse of judicial process. This petition is cryptic without having any semblance of legal or any other right to invoke jurisdiction of this Court under Article 226 of the Constitution of India.
5. The petition is accordingly dismissed as not maintainable with cost quantified to be Rs. 1000/- payable to the High Court Legal Aid Services Committee, within a period of three weeks from today.

Sd/-
Satish K. Agnihotri
Judge

Bablu